

**THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

In re

BESTWALL LLC,¹

Debtor.

Chapter 11

Case No. 17-31795 (LTB)

**JOINT SUPPLEMENTAL OBJECTION OF THE OFFICIAL COMMITTEE OF
ASBESTOS CLAIMANTS AND THE FUTURE CLAIMANTS' REPRESENTATIVE
TO THE MOTION OF THE DEBTOR TO (A) APPROVE RESOLVED CLAIM
SAMPLE AND (B) AUTHORIZE RELATED DISCLOSURE PURSUANT TO
RULE 502(d) OF THE FEDERAL RULES OF EVIDENCE**

The Official Committee of Asbestos Claimants (the “Committee”) and Sander L. Esserman, in his capacity as the Future Claimants’ Representative (the “FCR” and together with the Committee, the “Claimants’ Representatives”), by and through their undersigned counsel, hereby file this supplemental objection (the “Supplemental Objection”) to the *Motion of the Debtor to (A) Approve Resolved Claim Sample and (B) Authorize Related Disclosure Pursuant to Rule 502(d) of the Federal Rules of Evidence* [Docket No. 2183] (the “Claim Sample Motion”) filed by Bestwall LLC (“Bestwall” or the “Debtor”). In support of their Supplemental Objection, the Claimants’ Representatives state as follows:

1. The Claim Sample Motion seeks this Court’s endorsement of the “Resolved Claim Sample,” as defined therein, as “appropriate for use in the estimation proceeding . . . both for trust discovery and disclosure of privileged information by the Debtor.” Claim Sample Motion at 2.

¹ The last four digits of the Debtor’s taxpayer identification number are 5815. The Debtor’s address is 133 Peachtree Street, N.W., Atlanta, Georgia 30303.

2. Subsequent to filing the Claim Sample Motion, the Debtor noticed and served subpoenas on multiple plaintiffs' law firms, including The Ferraro Law Firm, P.A.; Waters & Kraus, LLP; and Peter Angelos Law, P.C (together, the "Plaintiff Firm Subpoenas"). [Docket Nos. 2273, 2285]. These subpoenas specifically identify six claimants that appear to be included in neither the Resolved Claim Sample nor the broader 2,700 claim files already selected by the parties, as follows:

Law Firm	Reference ID
Ferraro Law Firm	GP.2E537AB
Ferraro Law Firm	GP.2DEC091
Ferraro Law Firm	GP.2E5327A
Waters & Kraus	GP.1D03E75
Angelos Firm	GP.1D03E52
Angelos Firm	GP.2E8D138

3. Once again, the Debtor has represented to the Court that a narrow path of the Debtor's own choosing—relying solely on the Resolved Claim Sample—is the correct course of action for all parties, then promptly veered onto a different path that better serves its own interests. Bestwall protests discovery of its historical case files by the Claimants' Representatives but apparently does not feel that such limits should apply when it wishes to depose opposing counsel.

4. The Claim Sample Motion and Plaintiff Firm Subpoenas represent yet another example of the Debtor seeking to cement its informational advantage over the Claimants' Representatives by limiting the Claimants' Representatives' access to a subset of claimant files while Bestwall simultaneously pursues burdensome discovery of plaintiffs' attorneys concerning additional claimants.

5. The Debtor describes the Resolved Claim Sample as a “random, representative, and efficient sample that can provide a reliable characterization of the resolution history of Bestwall Mesothelioma Claims.” Claim Sample Motion ¶ 17. If this were indeed the case, there would be no need to seek documents and deposition testimony concerning claimant files not included in either the Resolved Claim Sample or the 2,700 previously agreed-upon claimant files.

6. The Debtor is acting inconsistently with its *own* requests. To permit the unilateral imposition of an inconsistent standard would needlessly and improperly prejudice the Claimants’ Representatives under the guise of efficiency.

7. Thus, in addition to the reasons articulated in *The Official Committee of Asbestos Claimants’ and the Future Claimants’ Representative’s Objection to the Motion of the Debtor to (A) Approve Resolved Claim Sample and (B) Authorize Related Disclosure Pursuant to Rule 502(d) of the Federal Rules of Evidence* (the “Objection”) [Docket No. 2214] the Debtor’s own actions in seeking information beyond the Resolved Claim Sample demonstrate why the Claim Sample Motion should not be granted.

WHEREFORE, for the reasons set forth herein and in the Objection, the Claimants’ Representatives respectfully request that the Court (i) enter an order denying the Debtor’s Claim Sample Motion; and (ii) grant such other relief as is just and appropriate.

[remainder of page intentionally left blank]

Dated: Charlotte, North Carolina
January 19, 2022

/s/ Glenn C. Thompson
HAMILTON STEPHENS STEELE
+ MARTIN, PLLC
Glenn C. Thompson (Bar No. 37221)
525 North Tryon Street, Suite 1400
Charlotte, North Carolina 28202
Telephone: (704) 344-1117
Facsimile: (704) 344-1483
Email: gthompson@lawhssm.com

-and-

Linda W. Simpson (Bar No. 12596)
JD THOMPSON LAW
Post Office Box 33127
Charlotte, North Carolina 28233
Telephone: (828) 489-6578
Email: lws@jdthompsonlaw.com

-and-

Natalie D. Ramsey (DE Bar No. 5378)
Davis Lee Wright (DE Bar No. 4324)
ROBINSON & COLE LLP
1201 N. Market Street, Suite 1406
Wilmington, Delaware 19801
Telephone: (302) 516-1700
Facsimile: (302) 516-1699
Email: nramsey@rc.com
dwright@rc.com

*Counsel to the Official Committee
of Asbestos Claimants*

/s/ Felton E. Parrish
Felton E. Parrish (NC Bar No. 25448)
ALEXANDER RICKS PLLC
1420 E. 7th Street, Suite 100
Charlotte, North Carolina 28204
Telephone: (704) 365-3656
Facsimile: (704) 365-3676
Email: felton.parrish@alexanderricks.com

-and-

James L. Patton, Jr. (Delaware Bar No. 2202)
Edwin J. Harron (Delaware Bar No. 3396)
Sharon M. Zieg (NC Bar No. 29536)
Travis G. Buchanan (Delaware Bar No. 5595)
YOUNG CONAWAY STARGATT &
TAYLOR, LLP
Rodney Square
1000 North King Street
Wilmington, Delaware 19801
Telephone: (302) 571-6600
Facsimile: (302) 571-1253
Email: jpatton@ycst.com
eharron@ycst.com
szieg@ycst.com
tbuchanan@ycst.com

*Counsel to the Future Claimants'
Representative*